

**GOOD GUSTAFSON AUMAIS LLP**  
J. Ryan Gustafson (Cal. Bar No. 220802)  
2330 Westwood Blvd., No. 103  
Los Angeles, CA 90064  
Tel: (310) 274-4663  
[jrg@ggallp.com](mailto:jrg@ggallp.com)

*Counsel for Plaintiff and the Proposed Class*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KAREN MARKHAM, individually,  
and on behalf of those similarly  
situated,

Plaintiff,

v.

LESSEREVIL LLC,

Defendant.

CASE NO. 3:23-cv-03412-JSC

**PLAINTIFF'S STATUS UPDATE  
CONCERNING *COGSWELL*  
MATTER**

Judge: Hon. Jacqueline Scott Cory

On September 23, 2024, the Court ordered the Plaintiff to file a status update concerning a similar matter against Defendant in the Eastern District of California (Cogswell) by January 6, 2025 (Dkt. No. 23).

### ***Current Status of Cogswell***

The parties in the *Cogswell* matter are still awaiting the court's resolution of Defendant's motion to dismiss. The *Markham* case before the Court is currently stayed until resolution of the motion to dismiss in *Cogswell*.

The most recent activity in the *Cogswell* case occurred on October 25, 2024, where Judge Calabretta – *sua sponte* – referred the pending motion to dismiss to be heard by the assigned Magistrate Judge.

### ***Background of Cogswell and Markham Matters***

The *Cogswell* matter was filed on March 1, 2023, in the Eastern District of California. The *Cogswell* matter concerns nutrition claims made on Defendant's products' packaging and was originally assigned to District Judge Ana de Alba.<sup>1</sup>

On April 28, 2023, Defendant filed a motion to dismiss. Ms. Cogswell filed her First Amended Complaint ("FAC") on May 19, 2023, and Defendant filed a motion to dismiss in response to the FAC on June 16, 2023. By July 10, 2023, the motion to dismiss was fully briefed and awaiting the court's ruling. In likely anticipation of Judge Ana de Alba's elevation to the Ninth Circuit Court of Appeals, the case was reassigned to District Judge Daniel J. Calabretta on September 13, 2023. Just six days later, the Court entered the stay<sup>2</sup>, and as of this date, the motion to dismiss is still pending after being referred to the assigned Magistrate Judge in October 2024.

---

<sup>1</sup> In April 2023, President Biden nominated Judge Ana de Alba to be elevated to the Ninth Circuit Court of Appeals. On November 15, 2023, Judge Ana de Alba was elevated to the Ninth Circuit Court of Appeals.

<sup>2</sup> The *Markham* action was filed on July 7, 2023. It sought relief concerning nutrition claims on the Defendant's toddler products. Because there were some overlapping issues, Defendant sought a stay until resolution of the motion to dismiss in *Cogswell*.

GOOD GUSTAFSON

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: September 19, 2024

Respectfully submitted,

GOOD GUSTAFSON AUMAIS LLP

/s/ J. Ryan Gustafson

jrg@ggallp.com

2330 Westwood Blvd., No. 103

Los Angeles, CA 90064

Tel.: (310) 274-4663

*Counsel for Plaintiff and the Proposed Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of January, 2025, a true and correct copy of this document was filed with the Court via the Electronic Case Filing System, and was served on all counsel of record through the same means.

/s/ J. Ryan Gustafson

J. Ryan Gustafson, Esq.

GOOD GUSTAFSON